

HOUSE BILL No. 4504

April 25, 2017, Introduced by Reps. Webber, Lucido and Bellino and referred to the Committee on Regulatory Reform.

A bill to amend 1998 PA 58, entitled "Michigan liquor control code of 1998," by amending section 533 (MCL 436.1533), as amended by 2016 PA 434.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 533. (1) Subject to subsection (12), the commission shall
2 not issue a new specially designated merchant license or transfer
3 an existing specially designated merchant license unless the
4 applicant is an approved type of business. An applicant is not an
5 approved type of business unless the applicant meets 1 or more of
6 the following conditions:

7 (a) The applicant holds and maintains a retail food
8 establishment license issued under the food law, 2000 PA 92, MCL
9 289.1101 to 289.8111. As used in this subdivision, "retail food
10 establishment" means that term as defined in section 1111 of the

1 food law, 2000 PA 92, MCL 289.1111.

2 (b) The applicant holds and maintains an extended retail food
3 establishment license issued under the food law, 2000 PA 92, MCL
4 289.1101 to 289.8111. As used in this subdivision, "extended retail
5 food establishment" means that term as defined in section 1107 of
6 the food law, 2000 PA 92, MCL 289.1107.

7 (c) The applicant holds or the commission approves the
8 issuance of a specially designated distributor license to the
9 applicant.

10 (d) The applicant holds or the commission approves the
11 issuance of a class C license to the applicant.

12 (e) The applicant holds or the commission approves the
13 issuance of a class A hotel license to the applicant.

14 (f) The applicant holds or the commission approves the
15 issuance of a class B hotel license to the applicant.

16 (g) The applicant holds or the commission approves the
17 issuance of a club license to the applicant.

18 (h) The applicant holds or the commission approves the
19 issuance of a tavern license to the applicant.

20 (i) The applicant holds or the commission approves the
21 issuance of a class G-1 license to the applicant.

22 (j) The applicant holds or the commission approves the
23 issuance of a class G-2 license to the applicant.

24 (2) A specially designated distributor may apply for a license
25 as a specially designated merchant.

26 (3) An applicant for a specially designated merchant license
27 not in conjunction with an on-premises license, except as provided

1 in section 229(1), or a person licensed under this act as a
2 specially designated merchant only or a class B hotel may apply for
3 a license as a specially designated distributor.

4 (4) ~~In~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 531(5), IN**
5 cities, incorporated villages, or townships, the commission shall
6 issue only 1 specially designated distributor license for each
7 3,000 of population, or fraction of 3,000. The commission may waive
8 the quota requirement under this subsection if there is no existing
9 specially designated distributor licensee within 2 miles of the
10 applicant, measured along the nearest traffic route. **EXCEPT AS**
11 **OTHERWISE PROVIDED IN SECTION 531(5), THE COMMISSION SHALL NOT**
12 **APPROVE THE APPLICATION OF A NEW SPECIALLY DESIGNATED DISTRIBUTOR**
13 **LICENSE OR APPROVE THE APPLICATION OF A HOLDER OF A SPECIALLY**
14 **DESIGNATED DISTRIBUTOR LICENSE REQUESTING A TRANSFER OF LOCATION OF**
15 **THAT SPECIALLY DESIGNATED DISTRIBUTOR LICENSE IF THERE IS AN**
16 **EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSED ESTABLISHMENT**
17 **WITHIN 2,640 FEET OF THE PROPOSED LOCATION. THE COMMISSION SHALL**
18 **USE A DIGITAL GLOBAL POSITIONING SYSTEM TO MEASURE THE DISTANCES**
19 **DESCRIBED IN THIS SUBSECTION. THE COMMISSION MAY WAIVE THE DISTANCE**
20 **RESTRICTION UNDER THIS SUBSECTION IF ANY OF THE FOLLOWING APPLY:**

21 (A) **THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR PURCHASED**
22 **LESS THAN \$100,000.00 IN SPIRITS FROM THE COMMISSION DURING THE**
23 **LAST FULL CALENDAR YEAR. BEGINNING JANUARY 1, 2018, THE COMMISSION**
24 **SHALL ADJUST THE DOLLAR AMOUNT IN THIS SUBDIVISION BY AN AMOUNT**
25 **DETERMINED BY THE COMMISSION AT THE END OF THE IMMEDIATELY**
26 **PRECEDING CALENDAR YEAR TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE**
27 **CHANGE IN THE CONSUMER PRICE INDEX. AS USED IN THIS SUBDIVISION,**

1 "CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX OF
2 CONSUMER PRICES AVAILABLE FOR THIS STATE FROM THE BUREAU OF LABOR
3 STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.

4 (B) THE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR HOLDS A
5 CLASS A HOTEL LICENSE OR A CLASS B HOTEL LICENSE.

6 (C) THE APPLICANT'S PROPOSED LOCATION AND THE EXISTING
7 SPECIALLY DESIGNATED DISTRIBUTOR'S LICENSED ESTABLISHMENT ARE
8 SEPARATED BY A MAJOR THOROUGHFARE OF NOT FEWER THAN 4 LANES OF
9 TRAFFIC.

10 (D) BOTH OF THE FOLLOWING APPLY:

11 (i) THE APPLICANT'S PROPOSED LOCATION IS LOCATED IN A
12 NEIGHBORHOOD SHOPPING CENTER THAT DOES NOT HAVE AN EXISTING
13 SPECIALLY DESIGNATED DISTRIBUTOR'S LICENSED ESTABLISHMENT. AS USED
14 IN THIS SUBPARAGRAPH, "NEIGHBORHOOD SHOPPING CENTER" MEANS THAT
15 TERM AS DEFINED IN SECTION 541.

16 (ii) THE APPLICANT'S PROPOSED LOCATION IS LOCATED NOT LESS
17 THAN 1,000 FEET FROM AN EXISTING SPECIALLY DESIGNATED DISTRIBUTOR'S
18 LICENSED ESTABLISHMENT.

19 (E) FOR AN APPLICANT THAT HOLDS A SPECIALLY DESIGNATED
20 DISTRIBUTOR LICENSE, ON A SHOWING OF GOOD CAUSE BY THE APPLICANT,
21 THE APPLICANT'S LICENSED ESTABLISHMENT IS LOCATED WITHIN 2,640 FEET
22 OF 1 OR MORE EXISTING SPECIALLY DESIGNATED DISTRIBUTOR LICENSED
23 ESTABLISHMENTS AND THE APPLICANT REQUESTS A TRANSFER OF LOCATION,
24 WHICH LOCATION IS WITHIN 2,640 FEET OF THE SAME EXISTING SPECIALLY
25 DESIGNATED DISTRIBUTOR LICENSED ESTABLISHMENT OR ESTABLISHMENTS.

26 (5) Except as otherwise provided in this section, in cities,
27 incorporated villages, or townships, the commission shall issue

1 only 1 specially designated merchant license for each 1,000 of
2 population. The quota under this subsection does not apply to any
3 of the following:

4 (a) An applicant for a specially designated merchant license
5 that is an applicant for or the holder of a license listed in
6 subsection (1)(d) to (j).

7 (b) An applicant for or the holder of a specially designated
8 merchant license whose licensed establishment meets 1 or more of
9 the following conditions:

10 (i) Meets both of the following conditions:

11 (A) The licensed establishment is at least 20,000 square feet.

12 (B) The licensed establishment's gross receipts derived from
13 the sale of food are at least 20% of the total gross receipts.

14 (ii) The licensed establishment is also a pharmacy as that
15 term is defined in section 17707 of the public health code, 1978 PA
16 368, MCL 333.17707.

17 (c) A secondary location permit issued to a specially
18 designated merchant under section 541.

19 (d) A specially designated merchant license issued under
20 subsection (7).

21 (e) A specially designated merchant license issued to a marina
22 under section 539.

23 (6) The commission may waive the quota under subsection (5) if
24 there is no existing specially designated merchant within 2 miles
25 of the applicant, measured along the nearest traffic route.

26 (7) The commission shall waive the quota under subsection (5)
27 if both of the following apply:

1 (a) The applicant applies for the specially designated
2 merchant license within 60 days after ~~the effective date of the~~
3 ~~amendatory act that added subsection (5)~~. **JANUARY 4, 2017.**

4 (b) The applicant is a retail dealer that holds a license
5 issued under section 6(1) of the motor fuels quality act, 1984 PA
6 44, MCL 290.646. The applicant shall include a copy of the license
7 described in this subdivision with the applicant's application
8 under this subsection. As used in this subdivision, "retail dealer"
9 means that term as defined in section 2 of the motor fuels quality
10 act, 1984 PA 44, MCL 290.642.

11 (8) A specially designated merchant license issued under this
12 section may be transferred to an applicant whose proposed operation
13 is located within any local governmental unit in a county in which
14 the specially designated merchant license was located. If the local
15 governmental unit within which the former licensee's premises were
16 located spans more than 1 county, a specially designated merchant
17 license may be transferred to an applicant whose proposed operation
18 is located within any local governmental unit in either county. If
19 a specially designated merchant license is transferred to a local
20 governmental unit other than that local governmental unit within
21 which the specially designated merchant license was originally
22 issued, the commission shall count that transferred specially
23 designated merchant license against the local governmental unit
24 originally issuing the specially designated merchant license.

25 (9) Except as otherwise provided in subsection (10), the quota
26 under subsection (5) does not bar the right of an existing
27 specially designated merchant to renew the specially designated

1 merchant license or transfer the specially designated merchant
2 license. This subsection applies to a specially designated merchant
3 license issued or renewed before, on, or after ~~the effective date~~
4 ~~of the amendatory act that added subsection (5)~~. **JANUARY 4, 2017.**

5 (10) A specially designated merchant license issued after ~~the~~
6 ~~effective date of the amendatory act that added subsection (5)~~
7 **JANUARY 4, 2017** to a person described in subsection (5) (a) or (b)
8 or to a specially designated merchant license issued under
9 subsection (6) may not be transferred to another location.

10 (11) An applicant for or the holder of a specially designated
11 merchant license that owns or operates a motor vehicle fuel pump on
12 or adjacent to the licensed premises is not required to meet the
13 conditions under section 541 as that section existed before ~~the~~
14 ~~effective date of the amendatory act that added subsection~~
15 ~~(5)~~. **JANUARY 4, 2017.**

16 (12) For a marina that maintains motor vehicle fuel pumps on
17 or adjacent to the licensed premises, or maintains a financial
18 interest in any motor vehicle fuel pumps, the commission may only
19 issue a special designated merchant license to the marina under
20 section 539.

21 (13) For purposes of this section, population is determined by
22 the latest federal decennial census, by a special census under
23 section 6 of the home rule city act, 1909 PA 279, MCL 117.6, or
24 section 7 of the Glenn Steil state revenue sharing act of 1971,
25 1971 PA 140, MCL 141.907, or by the latest census and corrections
26 published by the United States Department of Commerce, Bureau of
27 the Census, whichever is later.